Point32Health, parent company of Harvard Pilgrim Health Care & Tufts Health Plan ETHICS ADVISORY GROUP (EAG) Deliberation



Consultation Report <u>Speaking Out About Social Issues – Principles for Consideration by Health Plan Leaders</u> July 26, 2022

Purpose

To seek input from the multi-stakeholder Ethics Advisory Group (EAG) on principles leaders of a health plan might consider when deciding about speaking out on controversial social issues.

Customers for the Ethics Advisory Group and Expert Guests

The Point32Health customer for the EAG meeting was Kristin Lewis, BA, MBA, Executive Vice President and Chief Public and Community Affairs Officer for Point32Health. Invited expert guests Rebecca Hart Holder, BA, JD, Executive Director, Reproductive Equity Now, and Paul A. Argenti, BA, MA, MBA, Professor of Corporate Communication, Tuck School of Business at Dartmouth, offered introductory remarks.

Background

Recent Point32Health Ethics Advisory Group deliberations have addressed organizational ethics questions that reflect societal challenges with implications for population health. Challenges discussed included regulatory approval and marketing of expensive health technologies with limited benefits and gender affirming care. In such deliberations, EAG participants often suggest that Point32Health leaders should advocate publicly for the organization's position on controversial issues.

Structural racism, same sex marriage, gender affirming care, gun violence, and abortion rights are pressing social issues, among many others. All elicit strong emotions, reflect political divisions, and all have implications for individual and population health. U.S. Supreme Court decisions on June 23 and 24, 2022 on gun laws and abortion, respectively, have prompted heated public debate.

Speaking out publicly on social issues that affect health and equity could be expected by colleagues, members, contracted clinicians, and sponsoring employers of a health plan that "seeks to guide and empower healthier lives for everyone". At the same time, in a politically polarized society, organization leaders need to consider the business risks of taking positions publicly on controversial social issues.

The July 2022 Point32Health Ethics Advisory Group deliberation will address this question: Given a health plan's commitment to fostering a just, equitable society and its responsibilities for the well-being of the communities it serves, what are principles health plan leaders should consider for communicating publicly on controversial social issues? This document provides some background for the deliberation.^a

Public expectations for and trust in organizations

Increasingly, constituencies – employees, customers, investors - expect corporations to speak out on

^a These deliberations should keep in mind the limitations on political lobbying and campaigning that apply to non-profit, 501(c)(3) organizations. A non-profit organization, however, can engage in political advocacy to bring about social change in line with its mission.

social issues. The global communications firm Edelman posits that "trust defines an organization's license to operate, lead and succeed. Trust is the foundation that allows an organization to take responsible risk, and, if it makes mistakes, to rebound from them." In January 2022, Edelman published its 22nd annual Trust Barometer, based on results from a global survey of 36,000+ respondents in 28 countries conducted in November 2021. Results indicate that distrust in organizations is widespread: Globally, 61%, 59%, 52%, and 50% of respondents trust business, non-governmental organizations, government, and the media, respectively, to "do what is right". When more than 50% of respondents indicate trust in leaders "to do what is right", their trust is local: 66% trust "my CEO".

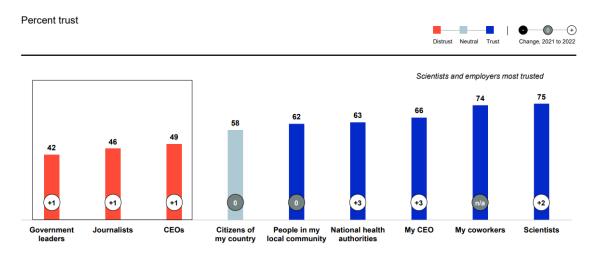


Figure 1. Societal Trust in Leaders (2022 Edelman Trust Barometer)

Respondents also believe that business is not doing enough to address societal problems; they look for societal leadership: "60% of employees want their CEO to speak out on controversial issues they care about and 80% of the general population want CEOs to be personally visible when discussing public policy with external stakeholders or work their company has done to benefit society." Respondents indicate that they hold business accountable: 58% say that they buy or advocate for brands, 60% that they choose a workplace, and 64% that they invest "based on their beliefs and values". Edelman concludes that "by a huge margin, people want more business engagement, not less."

Employees and customers holding business accountable "based on their beliefs and values" raises challenging questions about speaking out on social issues when beliefs and values on these issues are highly polarized. By definition, a position on a social issue on which diverse constituencies differ widely will affirm the beliefs and values of some and offend those of others.²

Several questions arise for organizations: Should an organization speak out on controversial social issues? What are risks of speaking out? What are risks of staying silent? If an organization speaks out, in what role should it do so? Who should speak out on behalf of the organization? In which ways? For which audiences?

Businesses have taken different approaches to speaking out on the June 24, 2022 Supreme Court decision *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade*, the landmark 1973 Supreme Court decision that affirmed the constitutional right to abortion. By the end of June, few organizations (including Blue Cross Blue Shield of Vermont³) have denounced the Court's decision; several (including Blue Cross Blue Shield of Massachusetts,⁴ JPMorgan Chase, Walt Disney and many others^{5,6}) have said that they will facilitate access to abortion care for employees, their spouses, and

dependents by supporting travel needs; Google offered employees to apply for relocation "without justification".⁷ Most companies⁶ (including Walmart⁸) have not issued public statements. In July 2022, Point32Health added a travel benefit for members impacted by the *Dobbs v. Jackson Women's Health Organization* Supreme Court decision as well as state laws preventing gender affirming surgeries:^b

Canton, Mass. — Point32Health and its family of companies, including Harvard Pilgrim Health Care and Tufts Health Plan, has developed a comprehensive travel benefit to support its members and employees who are unable to obtain access to covered services in their state of residence due to state laws restricting or prohibiting providers from providing such covered benefits. This action is in response to the recent Supreme Court decision, Dobbs v. Jackson Women's Health Organization, which overturned the long-standing precedent of Roe v. Wade, as well as gender affirming surgeries prohibited by certain state laws. The new travel benefit will be immediately available to fully-insured commercial accounts with more than 50 members that have coverage for these benefits, as well as offered to all self-funded commercial accounts. The travel benefit is also available to Point32Health employees who have health insurance benefits through the Company.

In addition to the travel benefit, Point32Health is also developing a comprehensive care navigation program aimed at helping its members find access to reproductive health care services, gender affirming surgeries, and support. The program, when developed, will apply across the Company's product lines.

"The health and well-being of our members is always our top priority, and we remain committed to ensuring our members have access to all the benefits and services that are part of their health plan," said Cain Hayes, President and CEO of Point32Health. "This is not only the right thing to do, but an important step in our journey in having a real impact on health equity for our members and the broader community."

A business framework for communicating on social issues

In a 2020 Harvard Business Review article, ⁹ Paul Argenti, Professor of Corporate Communication at Dartmouth College's Tuck School of Business, laid out a business framework for companies to decide on which issues to speak out. He suggests that companies and leaders should ask three questions: ⁹

- 1) Does the issue align with your corporate mission and values?
- 2) Can you meaningfully influence the issue?
- 3) Will your constituents (employees, customers, community) agree with speaking out?

Figure 1 illustrates the suggested stepwise decision process. Professor Argenti acknowledges that answers to these questions are not straight-forward – more along the lines of "mostly yes" and "mostly no" - and results are likely not clear cut.

Depending on the executive team's answers, he suggests roles in which an organization could speak out: as a leader or as a follower (for example, of an industry association that has decided to speak out); and when an organization should decide to not speak out.

The framework offers a stepwise decision strategy from a business perspective.

^b https://www.point32health.org/news/point32health-travel-benefit/

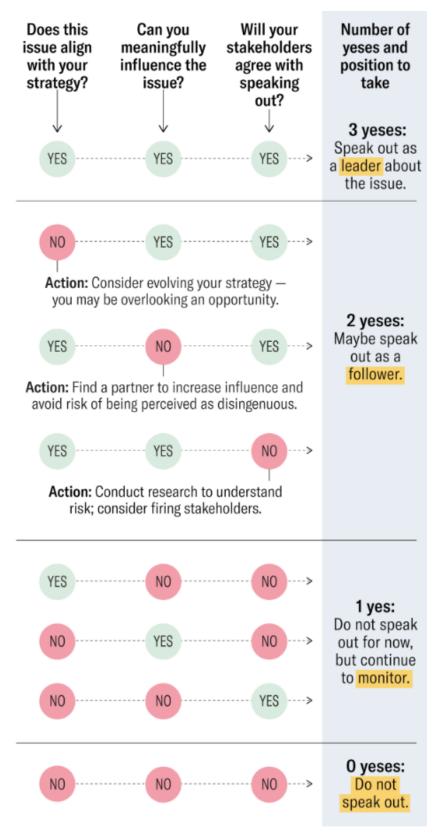


Figure 2. Speaking Out: Business Decision Questions (Argenti, HBR 2020)

An ethics framework for communicating on social issues

Professor Argenti suggests that "companies also need to weigh the morality around a given response, the intensity of emotion associated with a specific constituency, and what the consequences of no response might mean." 9

An ethics framework for deciding on speaking out could start with the organization's mission. Point32Health explains on its public website^c that it strives "to be a different kind of nonprofit health and well-being company"^c and that its purpose is to "guide and empower healthier lives for everyone no matter their age, health, race, identity, or income." The organization sees its roles as critical "in guiding and empowering the people we serve to achieve healthier lives." It is "committed to providing high-quality and affordable health care, improving the health and wellness of our members, and creating healthier communities across the country."^c Social issues on which US public opinion is starkly divided drastically and inequitably affect the health of individuals and communities: The victims of gun violence are mostly young, poor, Black Americans; 10 violence against transgender individuals disproportionally kills Black transgender women. 11 Evidence-supported expectations are that the Supreme Court decision to overturn Roe v. Wade will lead to surges in deaths from pregnancy complications and illegal abortions, increased risks of poverty, women staying in contact with physically abusive partners, and worsening women's health in general. ^{12,13,14,15} Given its organizational mission, Point32Health plans to continue to offer coverage for abortion services to members who have those benefits today as part of honoring its commitment to "providing high-quality and affordable health care for its members", as may be expected.

Considering another ethics principle, *trustworthiness*, one might argue that an organization should be trustworthy to act in pursuit of its mission. Arguably, continuing to act consistent with its mission by continuing to cover abortion services for its members and educating its members and communicating with its employers about ways the health plan facilitates access to abortion care do not require the organization to also speak out publicly on the Supreme Court ruling. However, an organization's coverage policies for health services that are based on standards of care and principles of health equity may align with one side of a political argument on a charged social issue. The question arises whether it might be viewed as inconsistent and not trustworthy to not affirmatively speak out publicly on an issue by both those who agree with the actions of the organization and who would expect and applaud its public stance consistent with those actions and those who disagree. If that were the case, both potential supporters and opponents of an organization's public stance might question an organization's *integrity* and *transparency*.

Considerations for weighing business and ethics frameworks by a health plan

Many social challenges affect US society, with diverse opinions on all. No business can or should speak out on all. As Professor Argenti's business framework lays out, organizations need to carefully chose on which issues they weigh in publicly. Social issues that have health implications are directly related to the business and passion of mission-driven health plans, their employees, members, contracted care providers, and plan sponsors. Arguably, a majority of those stakeholders would expect a health plan to take a position on issues that matter for life and death, regardless of business consequences that could ensue given that some constituents will disagree with the organization's position.¹⁶

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^c https://www.point32health.org/about-us/ourstory/

Related Prior Ethics Advisory Group Deliberations

In prior EAG deliberations, participants suggested that the organization advocate publicly for its mission and position and provide rationales for its decisions in nuanced ways. Below are quotes from relevant EAG consultation reports spanning 22 years. They document the organization's long-standing attention to ethical aspects of its decisions.

1/21/2022 - Justice, Equity, Diversity, Inclusion: Principles to Guide a Health Plan's Partnerships with Communities

"The January 2022 EAG discussion affirmed the responsibility, commitment, and opportunities of Point32Health as an influential civic leader to bring its voice, readiness, and resources to a sustained movement for social change toward a just society, alongside and in partnership with communities."

10/15/2021 - Accelerated Drug Approvals: Roles and Responsibilities of a Health Insurer "Almost uniformly, participants agreed that a health plan should advocate publicly for better evidence underlying drug approvals. Public advocacy is part of its role as steward of health and financial resources. Participants praised Point32Health's leaders for publicly speaking to the challenges the current drug regulatory, pricing, and reimbursement ecosystem poses for payers and society. They agreed that the organization's public stance is welcome, rare, and a testimony to Point32Health's brand as an organization that continues to seek to "do the right things".

3/15/2021 - COVID-19 Vaccination Equity – A Framework to Guide a Regional, Not-for-Profit Health Organization

"EAG participants stressed that COVID-19 communication and roll-out needs are opportunities for the health plan to advance equity and earn trust, now and for the longer-term.[...] Participants emphasized that the health plan should actively listen to members of diverse communities to hear what is needed and in which ways community members' needs would be best met. Rather than focusing on its own voice, the health plan may want to "amplify the voices of trusted community leaders", and then "Respond to needs voiced by communities. Activities a health plan prioritizes and initiates with and in response to requests by communities will be more likely to meet needs, demonstrate trustworthiness, and build trust than activities developed by the health plan without community input."

1/31/2008 - A Framework of Values for the Next Phase of HPHC's Health Disparities Programs "Race and ethnicity are often "hot button" issues for members and the public, and HPHC's actions may be seen negatively by some. The EAG recommended maximum transparency about the evidence base and rationale for HPHC's activities in the area to help members and other constituents understand its disparities program."

4/5/2007 - Developing a Framework of Values for Dealing with MA Health Care Reform "After discussing the overall structure of the reform process, the group turned to deliberating about the components of a values framework for HPHC to use in the context of a volatile political environment. The EAG recommended six values for the framework: 1. Always tell the truth; 2. Be a responsible corporate citizen; 3. Risk being unpopular; 4. Remain financially sound - "no margin, no mission"; 5. Encourage fair distribution of responsibility; 6. Educate constituents."

1/26/2000 - How can the EAG best contribute to HPHC in the extraordinary current circumstances? "The group noted that some of the problems HPHC must address have no options that will satisfy all or even most stakeholders. In these circumstances there is a tendency for observers to assume the worst about the organization. EAG members who had access to [the CEO's] emails to staff felt those

communications were extremely valuable in the way they revealed the reasoning process behind various choices. People could disagree with a particular decision but could not see the leadership as devoid of ethical concern. This kind of communication, appropriately adapted, should be conducted as widely as possible."

Questions for the July 2022 Point32Health Ethics Advisory Group Deliberation

Given a non-profit health plan's commitment to fostering a just, equitable society and its responsibilities for "guiding and empowering the people we serve to achieve healthier lives",

- 1. What principles should health plan leaders consider for taking, or not, a position publicly on controversial social issues that impact individual and population health?
- 2. Is "doing the right thing" from a health and access perspective (e.g., covering needed travel for abortion care) without taking a position publicly sufficient to prove trustworthy in pursuing the health plan's mission?
- 3. If a health plan decides to not speak out publicly on a divisive social issue related to health and equity, should the health plan communicate its rationale for the decision to its constituencies?

Summary of the July 2022 Point32Health Ethics Advisory Group Deliberation

More than 70 individuals from within and outside of Point32Health joined the deliberation. Point32Health customer Kristin Lewis, Executive Vice President and Chief Public and Community Affairs Officer for Point32Health and expert guests Rebecca Hart Holder, Executive Director, Reproductive Equity Now, and Paul A. Argenti, Professor of Corporate Communication, Tuck School of Business at Dartmouth helped set the stage for the discussion. They made the following points to inform the discussion:

Point32Health's considerations: Point32Health's purpose is to guide and empower healthier lives. The challenges society faces impact health, health equity, and justice. And they are divisive, making it difficult for an organization to take a stance publicly while considering diverse perspectives of its members, customers, and stakeholders. The EAG deliberation was much welcomed.

The Dobbs decision in context: About 1 in 4 women aged 15 to 44 years are estimated to have an abortion by age 45.¹⁷ Abortion care is safe, effective health care.¹⁸ Abortions occurring later in pregnancy (after 21 weeks) are rare.¹⁹ Following the U.S. Supreme Court's ruling overturning the nearly 50-year constitutional right to abortion, by July 2022, at least eight states have banned abortion, four states have banned abortion at six weeks of pregnancy, and about half of U.S. states are expected to issue abortion bans or other limits on the procedure.²⁰ Abortion bans force pregnant people to travel for care and will disproportionately impact people of color, poor people, and young people.

Nationwide, public support for legal abortion remains largely unchanged since before the ruling, with 62% of adults surveyed after the *Dobbs* decision saying abortion should be legal in all or most cases.²¹ In Massachusetts, the 2020 ROE Act codified the right to abortion care and removed barriers to access to abortion care.²² In a Suffolk University/Boston Globe poll conducted in July 2022, 78 percent of Massachusetts residents said abortion should be legal in all or most cases.²³

Changing expectations for businesses: Different from Milton Friedman's 1970's assertion that the "social responsibility of business is to increase its profits", ²⁴ some business leaders today define "the business of business [as] improving the state of the world', ²⁵ and some CEOs recognize their responsibility and

platform to engage with polarizing topics.²⁶ The 2022 Global Communication Report of the USC Annenberg Center for Public Relations documents that 73% of professional communicators predict they will increase their engagement with social issues this year.²⁶ Organizations need to define their strategy for communicating on social issues before issues arise.

EAG participants voiced the following <u>principles and considerations for guiding a health plan's decisions</u> <u>on taking a public stance on polarizing social issues</u> in general, and on the Supreme Court abortion ruling in particular:

Integrity: When a social issue intersects with an organization's expertise and purpose, and an organization can make a meaningful difference, silence could be viewed as a lack of integrity by colleagues within and stakeholders outside of the organization. Silence likely signals a position, not necessarily in favor of the organization.

Transparency: Participants agreed that transparency matters greatly. As social issues are politicized, organizations must attend to the consistency and transparency of their actions. Participants cited cases of organizations publicly supporting one side of a polarized debate and at the same time supporting those who lobby for the other side. Transparency is also a reason for organization leaders to explain rationales for not speaking out on an issue to avoid being seen as hiding from challenging questions.

Considerations on how to take a stance: Participants differentiated between an organization's actions (e.g., a health plan's coverage policies) and speaking out publicly on an issue. By covering abortion care and offering travel benefits, health plans act in the debate around abortion care. On the question whether such action suffices, some participants felt that proving trustworthy requires speaking out consistent with and in addition to these actions.

Respect, reason, evidence: When speaking out on social issues, organization leaders should do so respectfully acknowledging existing disagreement, presenting reasons and evidence for their position, affirming their commitment to serving all constituents, and emphasizing the mission minded considerations underlying their decision. Health organization leaders should evaluate implications of speaking out for individuals' access to and engagement with health care.

Solidarity and power to make a difference: With respect to publicly speaking out in addition to its actions, participants considered that one organization taking a stance cannot change serious social problems. They agreed, however, that an organization with expertise in a given social issue speaking out can lead to powerful coalition building among similar minded organizations to influence legislators' and policy makers' decisions in favor of health equity and social justice. The opportunity for coalition building for change would also apply across industries to organizations outside of health care.

Considerations of internal stakeholders: Health plan leaders should communicate to their workforce the gender equity aspects of abortion care. Colleagues within an organization should be empowered to be civic advocates. However, individuals' roles as citizens in society are different from the public advocacy roles of organization leaders.

Anticipation and follow-through: If leaders decide to speak out on a polarizing social issue, they must be prepared for repercussions from constituents who disagree (which, on abortion, may be up to 40% of constituents nationally, likely fewer locally). Leaders need to be willing to defend their position and must avoid a reversal on a stance they have taken publicly.

EAG participants responded to two <u>poll questions</u>. Of 50 respondents to the poll question 'Do you think a health plan should take a position publicly on polarizing social issues that impact the health of individuals and communities?', 43 (86%) said 'yes' and 7 (14%) indicated that they were 'not sure'. Of 45 respondents to the question 'Do you think a health plan should take a position publicly in the abortion debate?', 39 (87%) said 'yes', 2 (4%) said 'no', and 4 (9%) were 'not sure'.

EAG participants offered the following reasons for why a health plan should take a position publicly on polarizing social issues:

- "We SHOULD speak out as a powerful voice for the vulnerable."
- "That is the key point for those of us in particularly overlooked/forgotten groups not speaking out makes it clear that we are not the ones the company is looking out for."
- "... disadvantaged groups will notice us not standing up for them. If we aren't there for them
 publicly, they and those who support them would also be more likely to stay away from our
 company. I don't think not taking a stand is a way to keep everyone happy with our stance."
- o "If we believe that the decision is a private one, we should reframe the debate and keep it between a patient and their doctor."
- "If we don't speak up for our members who are most at risk and would need abortion health care, by stating our firm pro-choice stance, I don't see how our members can trust us to stand by our claim to working for the underserved communities they live in."
- "I would want my health plan to speak out, so I know that they are going to keep their promise to cover the benefits they agreed to. So, if abortion was a covered benefit, I would want to hear from the company that they are going to continue the coverage - AT LEAST."
- "I do want the company with whom I choose to be employed by to have a voice and a say. It helps me feel proud to serve our members and be part of a team that does speak out and does not fear being at the forefront. It is our duty to speak out and protect our customers."
- "I think that the reputation of your organization in general is being forward-thinking and ahead of the curve. To do something less than that would be going against your reputation. That reputation that Point32Health has of being ten steps ahead of everyone else...taking some kind of public stance would be what people are expecting."
- "I think a minimum responsibility ... is speaking out on behalf of what the _facts_ are. There are widespread falsehoods widely believed about abortion."

EAG participants offered the following reasons for why a health plan should not take a position publicly on polarizing social issues:

- "My only concern is if we think taking that position would harm us so much as a company that we would be unable to actually provide these needed services to our members."
- "Backlash from stakeholders seems like the most obvious reason not to [speak out]."
- "...if the health plan's speech turns people away when they don't have other viable options for accessing the good of health insurance, considering that health insurance is an essential good to facilitate access to health care."
- "... it would be suicide to speak out on something that most of your shareholders are opposed to."
- "A principled opponent sees abortion as the murder of a human being, which is certainly a very serious health impact. However Point32 conducts itself, it needs to be careful not to disrespect principled opponents, because they have serious health-related concerns which one may not agree with but has to respect in its integrity for that person."

Participants debated whether a health plan should speak out publicly in support of abortion in certain cases (e.g., the life of the pregnant person is in danger) and on some aspects of abortion state laws such as care denials and delays and associated serious health harms. Most participants disagreed with the idea of a health plan qualifying when an abortion is considered appropriate.

In summary, most EAG participants shared perspectives in favor of a health plan speaking out on social issues, while considering potential negative consequences of doing so. Importantly, whatever a health plan communicates on polarizing social issues, it should also acknowledge that legitimate disagreement exists and communicate that it will continue to serve all members, whether or not they agree with the position the health plan assumes. To inform decision making, Professor Argenti suggested that leaders of organizations seek to answer the questions "What aren't we doing that we should be doing, and what are we doing that we shouldn't be doing?"

This report is respectfully submitted, with gratitude to Point32Health leaders, expert guests, and all who generously shared their perspectives, making this important and timely Point32Health EAG conversation possible.

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